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IP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/454,481 12/03/99 ALLISON

J A-68668/RFT

HM12/0129

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EXAMINER

RAWLINGS, S

ART UNIT

PAPER NUMBER

1642

DATE MAILED:

01/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/454,481

Applicant(s)

ALLISON ET AL.

Examiner

Stephen L. Rawlings, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claims 13-32 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☒ Other: *Restriction Election facsimile sheet*.

### DETAILED ACTION

1. The Amendment filed on December 3, 1999 (Paper No. 4) is acknowledged and has been entered.
2. The Amendment filed on June 26, 2000 (Paper No. 6) is acknowledged and has been entered. Claims 1-12 have been canceled. Claims 13-32 have been added.
3. It is noted that claim 30 recites the limitation "the method of claim 30". For the purposes of this restriction, claim 30 has been treated as if it depends from claim 29. Applicant is requested to correct the claim dependency.
4. Claims 13-32 are pending in the application and are currently subject to restriction.

**Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. Thank you in advance for allowing us to enhance our customer service.

Please limit the use of this dedicated Fax number to responses to Written Restrictions.

***Elections/Restrictions***

5. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I. Claims 13-17, 19, and 20, drawn to a method of stimulating an immune response comprising contacting a T cell with a first immune response stimulating agent comprising either tumor cells or tumor cell lysate, classified in class 424, subclass 271.1.

Group II. Claims 13, 14, and 18-20, drawn to a method of stimulating an immune response comprising contacting a T cell with a first immune response stimulating agent comprising a purified protein, classified in class 424, subclass 185.1.

Group III. Claims 21-25 and 27-31 drawn to a method of inhibiting the growth of tumor cells comprising contacting a T cell with a first immune response stimulating agent comprising either tumor cells or tumor cell lysate, classified in class 424, subclass 271.1.

Group IV. Claims 21, 22, 26-28, and 31, drawn a method of inhibiting the growth of tumor cells comprising contacting a T cell with a first immune response stimulating agent comprising a purified protein, classified in class 424, subclass 185.1.

Group V. Claim 32, drawn a method of inhibiting the growth of poorly-immunogenic or non-immunogenic non-T cell tumor cells, classified in class 424, subclass 9.2.

6. The inventions are distinct, each from the other because of the following reasons:

Inventions I-V are disclosed as materially different methods that differ at least in objectives, method steps, reagents and/or doses and/or schedules used, response variables, assays for end products and/or results, and criteria for success and therefore, the claimed methods are distinct.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter, restriction for examination purposes as indicated is proper.

8. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.


9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is (703) 305-3008. The examiner can normally be reached on Monday-Thursday, alternate Fridays, 8:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony C. Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
**DONNA WORTMAN**  
**PRIMARY EXAMINER**

Application/Control Number: 09/454,481  
Art Unit: 1642

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Stephen L. Rawlings, Ph.D.  
Art Unit 1642

slr

January 25, 2001



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

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